

**REMARKS**

Applicants note that all amendments, cancellations, and additions of Claims presented herein are made without acquiescing to any of the Examiner's arguments or rejections, and solely for the purpose of expediting the patent application process in a manner consistent with the PTO's Patent Business Goals (PBG),<sup>1</sup> and without waiving the right to prosecute the cancelled claims (or similar claims) in the future.

The Examiner has indicated that the application contains subject matter drawn to a non-elected invention (Cayman Ataxia polypeptides) (Office Action, pg. 2). The Applicants have amended the Claims to cancel the detection of variant Cayman Ataxia polypeptides as requested by the Examiner.

**I. The Claims are Enabled**

Claims 1, 5-12, and 15 are rejected under 35 U.S.C. 112, first paragraph as allegedly lacking enablement (Office Action, pg. 6). In particular, the Examiner states that "The specification provides no guidance to where intron 9 begins in SEQ ID NO:11." and "The claims are further not limited to human patients and therefore encompass detection in any species...." (Office Action, pg. 7). The Examiner further states "Finally, the claims are drawn to an association with ataxia, myoclonus, dystonia, epilepsy and nystagmus. The instant specification does not provide any association between these wide range of disorders." (Office Action, pg. 8). The Applicants respectfully disagree. Nonetheless, in order to further the business interests of the Applicants, and while reserving the right to pursue the original (or similar) claims in the future, the Applicants have amended Claim 1 to refer to detecting a Cayman ataxia variant selected from SEQ ID NOS: 8 and 10 in a human subject. The Applicants have further canceled Claim 8.

In the Advisory Action dated 12/8/06, the Examiner states "SEQ ID NO:8 and 10 are very large sequences with a vary large possibilities [sic] of variants." (Advisory Action, pg. 2). The Applicants respectfully disagree and submit that the claims clearly state that SEQ ID NOS: 8 and 10 provide the nucleic acid sequences of the claimed

---

<sup>1</sup>

65 Fed. Reg. 54603 (Sept., 8, 2000).

variants. The Claims are not, as the Examiner has asserted, directed to variants of SEQ ID NOS: 8 and 10. Nonetheless, in order to further the business interests of the Applicants, and while reserving the right to pursue the original (or similar) claims in the future, the Applicants have amended Claim 1 to clearly state that the claims are directed towards detection of variants selected from SEQ ID NOS:8 and 10. As such, the Applicants submit that the claims are enabled and respectfully request that the rejection be withdrawn.

**II. The Claims are Novel**

Claims 1, 4, 6-12, and 15 are rejected under 35 U.S.C. 102(b), as allegedly being anticipated by Nagase (GenBan accession number AB058775; DNA Res. 8:85 [2001]; hereinafter Nagase). The Applicants respectfully disagree. As described above, the Claims have been amended to refer to detection of specific Cayman Ataxia variants described in the specification (SEQ ID NOS: 8 and 10). Nagase does not teach a method of detecting the presence of SEQ ID NOS: 8 or 10 in a sample. In the Advisory Action dated 12/8/06, the Examiner states “however, the claims are not limited to SEQ ID NO: or 10. The claims are directed to a variant of SEQ ID NO:8 or 10.” (Advisory Action, pg. 2). The Applicants respectfully disagree. As described above, the claims have been amended to clearly state that the variants are selected from SEQ ID NOS: 8 and 10. As such, the Applicants submit that Nagase does not teach all of the elements of the claims as required for rejection under 35 U.S.C. 102(b). Accordingly, the Applicants respectfully request that the rejection be withdrawn.

**CONCLUSION**

If a telephone interview would aid in the prosecution of this application, the Examiner is encouraged to call the undersigned collect at (618) 218-6900.

Date: December 22, 2006



---

Tanya A. Arenson  
Registration No. 47,391

MEDLEN & CARROLL, LLP  
101 Howard Street, Suite 350  
San Francisco, California 94105  
(608) 218-6900